

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

In Re:

DHC REALTY, LLC,

Debtor,

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DHC REALTY, LLC, CHOWAIKI  
HOLDINGS, LLC, EL PASO DHC  
ENTERPRISES, LLC, EL PASO DHC  
ENTERPRISES FAR EAST, LLC,  
EL PASO DHC ENTERPRISES  
WEST, LLC, and DAVID CHOWAIKI

Plaintiffs,

v.

ARMANDO ARMENDARIZ,  
YVETTE ARMENDARIZ, and  
HECTOR ARMENDARIZ,

Defendants.

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ARMANDO ARMENDARIZ and  
YVETTE ARMENDARIZ

Counterclaimants

v.

DHC REALTY, LLC, CHOWAIKI  
HOLDINGS, LLC, EL PASO DHC  
ENTERPRISES, LLC, EL PASO DHC  
ENTERPRISES FAR EAST, LLC,  
EL PASO DHC ENTERPRISES  
WEST, LLC, DAVID CHOWAIKI, and  
HILEL CHOWAIKI

Counterdefendants

Case No.: 11-30977-hcm

Adversary No.: 12-03012-hcm

**DEFENDANTS' MOTION TO QUASH SUBPOENA FOR RECORDS IN AN  
ADVERSARY PROCEEDING TO EVOLVE CREDIT UNION**

TO THE HONORABLE COURT:

Defendants Armando Armendariz, Yvette Armendariz, and Hector Armendariz (collectively "Defendants"), by their undersigned counsel, file the following Motion to Quash Subpoena ("Motion" or "Motion to Quash"), and in support of thereof show:

1. On March 20, 2013, Plaintiffs filed and served a subpoena to Evolve Credit Union ("Evolve") ("Subpoena") seeking records pertaining to Defendants [dkt no. 83], a copy of which is attached hereto as Exhibit 1.
2. Plaintiffs' Subpoena seeks to obtain copies of Defendants personal financial information, including bank statements, deposit slips, loan documents, and correspondence to Evolve.
3. Defendants move to quash this Subpoena per Federal Rules of Civil Procedure ("FRCP"), Rule 45(c)(3)(A)(iii) ("Rule 45"). FRCP, Rule 45 requires that a subpoena be quashed when it "requires disclosure of privileged or other protected matter, if no exception or waiver applies".
4. Defendants have asserted privilege regarding the financial documentation requested by Plaintiffs' in their Requests for Production.
5. Defendants have stated in their responses to Plaintiffs' Requests for Production that they will produce to the financial records requested by Plaintiffs, provided Plaintiffs can agree that they will protect Defendants personal information by not disclosing it to any third parties not involved in this lawsuit by means of a confidentiality agreement. The fact that Plaintiffs are not willing to provide this simple protection to Defendants would seem that they are not acting in good faith.

6. If Plaintiffs genuinely wish to review Defendants' financial records to aid in prosecuting their claims, a simple request to protect the information from dissemination to third parties is no obstacle to this end. However, by refusing to even discuss a confidentiality agreement, which was initially proposed to protect Plaintiffs' interests as well, followed by the filing of Motions to Compel, Plaintiffs only appear to be acting in bad faith.

7. Plaintiffs' Subpoena also goes far beyond requesting documentation that was previously requested in their Requests for Production, and seeks many additional documents not previously requested, including all Defendants' deposit slips and correspondence with Evolve.

8. This begs the question as to why Plaintiffs' did not previously request this information from Defendants when they had the opportunity. It would seem the many requests for additional documentation are merely an attempt to harass, intimidate, and humiliate Defendants.

9. Failure to quash Plaintiffs' Subpoena would result in incalculable, incurable harm to Defendants. Without protection, Defendants financial information, including sensitive information relating to their identity could be made fodder for public consumption. Defendants have a right to have their personal information protected.

WHEREFORE, Defendants respectfully request that Plaintiffs' Subpoena be quashed, and that Defendants be granted any further relief to which they may be justly entitled.

Respectfully submitted,

**FIRTH♦JOHNSTON♦MARTINEZ**

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/s/ Christopher R. Johnston  
**CHRISTOPHER R. JOHNSTON**  
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/s/ Sidney J. Diamond  
**SIDNEY J. DIAMOND**  
State Bar No. 5803000

**CERTIFICATE OF SERVICE**

I, Christopher R. Johnston, do hereby certify that on April 5, 2013, a true and correct copy of the foregoing, Defendants' Motion to Quash Subpoena for Records in an Adversary Proceeding to Evolve Credit Union, was served via electronic means as listed on the Court's ECF noticing system or by depositing the same in the United States Mail, properly addressed and postage prepaid, to the following parties:

**THE DEBTOR:**

DHC Realty, LLC  
301 Williams  
El Paso, TX 79901

**THE DEBTOR'S ATTORNEY:**

Corey W. Haugland  
P.O. Box 1770  
El Paso, TX 79949-1770

/s/ Christopher R. Johnston  
**CHRISTOPHER R. JOHNSTON**